

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

GARY DEE BICE,)	
)	
Plaintiff,)	
)	
v.)	No. 1:20-cv-263-SEP
)	
JOHN JORDAN,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff Gary Dee Bice’s Motion for leave to proceed in forma pauperis. Doc. [2]. For the reasons set forth below, the motion will be denied, and this case will be dismissed without prejudice to the filing of a fully-paid complaint.

Bice is a prisoner who, while incarcerated, has filed at least three civil actions that were dismissed on the grounds that they were frivolous, malicious, or failed to state a claim upon which relief may be granted.¹ The Prison Litigation Reform Act of 1996 provides that:

In no event shall a prisoner bring a civil action . . . under this section if the prisoner has, on three or more prior occasions, while incarcerated or detained in any facility, brought an action . . . in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g). Therefore, Bice may proceed *in forma pauperis* in this action only if he “is under imminent danger of serious physical injury.” *Id.*

In his Complaint, Bice alleges that his personal bank account was compromised after he was arrested on December 3, 2009. He made various attempts to resolve the matter, including writing to Defendant Sheriff John Jordan on April 25, 2017, but Defendant failed to respond. Bice asks this Court to order the prosecution of those involved in this matter and to order that his money be replaced. Doc. [1] at 8. He also seeks \$10,000 in damages.

¹ See *Bice v. Ester*, No. 1:10-cv-93-SNLJ (E.D. Mo. Sept. 13, 2010); *Bice v. Commission or Directors of Cape Girardeau City Police Dept.*, No. 1:11-cv-27-SNLJ (E.D. Mo. Feb. 25, 2011); and *Bice v. Eastest*, 1:13-cv-181 SNLJ (E.D. Mo. Mar. 26, 2014).

Bice's allegations do not establish that he is under imminent danger of serious physical injury. Therefore, he may not proceed *in forma pauperis* in this action. *See id.* The Court will deny Bice's motion for leave to proceed *in forma pauperis* and dismiss this case without prejudice to the filing of a fully-paid complaint.

Accordingly,

IT IS HEREBY ORDERED that Gary Bice's motion for leave to proceed *in forma pauperis* (Doc. [2]) is **DENIED**.

IT IS FURTHER ORDERED that this case is **DISMISSED without prejudice** to the filing of a fully-paid complaint.

IT IS FINALLY ORDERED that Plaintiff's motion for the appointment of counsel (Doc. [4]) is **DENIED as moot**.

An appropriate Order of Partial Dismissal will accompany this Memorandum and Order.

Dated this 18th day of December, 2020.



SARAH E. PITLYK
UNITED STATES DISTRICT JUDGE